



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 20, 2008

MEMORANDUM

To: Thomasenia P. Duncan
General Counsel

Through: Patrina M. Clark
Staff Director

From: John D. Gibson
Chief Compliance Officer

Joseph F. Stoltz
Assistant Staff Director
Audit Division

Alex Boniewicz
Audit Manager

By: Rhonda Gillingwater
Lead Auditor

Subject: Sharpton 2004 (A04-0008) - Referral Matters

AUDIT REFERRAL # 08-04

On February 15, 2008, the final audit report on Sharpton 2004 was forwarded to the Commission. The final audit report includes the following matters that meet the criteria for referral to your office:

- **Finding 3. Receipt of Prohibited Contributions** – The preliminary audit report (PAR) concluded that Sharpton 2004 received \$735,314 in possible prohibited contributions from three sources. In response to the PAR, Sharpton 2004 submitted a narrative which stated that payments to Amex should be prorated, that many of the payments had not cleared the bank and that Sharpton 2004 did not have any information to determine the sources of assets and income of the Sharpton's or NAN that were used to make payments on the account. The Audit staff's revised analysis indicated that Sharpton 2004 had received a minimum of \$486,803 in prohibited funds. As a result, Sharpton 2004 should pay \$486,803 to the U.S. Treasury.

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This same issue is addressed in MUR 5408. The Audit staff coordinated its efforts with OGC staff working on that MUR.

- **Finding 4. Receipt of Contributions that Exceed the Limits** – A review of contributions from individuals indicated that Sharpton 2004 failed to resolve excessive contributions totaling \$10,500. Of these, only one was eligible for presumptive reattribution. No copy of a reattribution letter was provided and none of the contributions were refunded. In response to the PAR, Sharpton 2004 stated that it concurred with the finding and that it would implement the recommendations made in the report. To date, no evidence to show any corrective action regarding these excessive contributions has been provided. As a result, Sharpton 2004 should pay \$10,500 to the U.S. Treasury.
- **Finding 5 – Misstatement of Financial Activity** – A comparison of Sharpton 2004's reported activity to bank records revealed that receipts and disbursements, as well as ending cash on hand, had been materially misstated in calendar year 2004. Receipts were understated by \$110,279, due primarily to not reporting the receipt of \$100,000 in matching funds. Disbursements were understated by \$24,937 for the most part due to payroll and bank fees paid in March 2004 but not reported. Ending cash on hand was understated by \$96,537. In its response to the PAR, Sharpton 2004 concurred that its activity was misstated in 2004 and indicated amended reports would be filed. To date, such reports have not been filed.

All work papers and related documentation are available for review in the Audit Division. Should you have any questions regarding this matter, please contact Rhonda Gillingwater or Alex Boniewicz at 694-1200.

Attachments: Finding 3– Receipt of Prohibited Contributions
Finding 4 – Receipt of Contributions that Exceed the Limits
Finding 5 – Misstatement of Financial Activity

cc: Lorenzo Holloway
Larry Calvert

Finding 3. Receipt of Prohibited Contributions

Summary

The PAR concluded that Sharpton 2004 received \$735,314 in possible prohibited contributions from three sources. In response to the PAR, Sharpton 2004 submitted a narrative which stated that payments to Amex should be prorated, that many of the payments had not cleared the bank and that Sharpton 2004 did not have any information to determine the sources of assets and income of the Sharpton's or NAN that were used to make payments on the account. The Audit staff's revised analysis indicated that Sharpton 2004 had received a minimum of \$486,803 in prohibited funds. As a result, Sharpton 2004 should pay \$486,803 to the U.S. Treasury.

Legal Standard

Receipt of Prohibited Corporate Contributions. Political campaigns may not accept contributions made from the general treasury funds of corporations. This prohibition applies to any type of corporation including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative. 2 U.S.C. §441b.

Questionable Contributions. If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:

1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3(b)(4).
3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

During fieldwork, the Audit staff's review of Sharpton 2004 financial records indicated it received as much as \$735,314 in possible prohibited contributions from, at a minimum, three sources. Each of the three is discussed below.

1. National Action Network

As stated above, the Candidate established NAN in 1991, with the stated goal of fighting to empower people by providing extensive voter education, services aiding the poor, supporting economically small community businesses, as well as confronting racism and violations of civil and human rights. The Candidate is NAN's president. Funds raised by NAN appear to be from corporations, memberships, two annual fundraising dinners and Saturday morning rallies. NAN is a not for profit corporation.

Based upon a review of NAN bank records, the Candidate's Amex account statements, commentary by Sharpton 2004 staff and vendors associated with the campaign; it is the opinion of the Audit staff that the Candidate used money raised by NAN to promote his presidential campaign. As previously stated in Finding 2, the Candidate used his personal Amex account for travel. The Audit staff was able to identify a total of \$121,996 in payments from Sharpton 2004 for the Amex account, but the review also noted that NAN made payments on the Candidate's Amex account totaling \$268,076 either:

- directly in the form of NAN checks made payable to Amex,
- indirectly by NAN checks made payable to the Candidate annotated to indicate the purpose was for payment on the Amex account or
- indirectly by NAN checks made payable to cash, Rev-Als Production Inc., or Rev Al Entertainment Inc. with annotations such as "deposit on Amex overdue expense," "pay Amex travel" or "Amex charges."

In addition to payments to the Amex account, NAN paid other vendors for activity which appears related to the presidential campaign. A total of \$84,611 was paid for items such as voter registration services, fundraising and plane tickets. The Archer Group (Archer) received payments of \$45,266 for what appears to be voter registration activity. When questioned about the work Archer performed for NAN, a representative for the vendor stated NAN hired Archer to develop, write and implement a voter registration plan for NAN. In addition, Archer was to support NAN in "scheduling" and "advance" logistics. But according to a statement from the Executive Director of NAN, during this time frame, she was the only person who provided voter registration services for NAN. Based upon the Audit staff's analysis of the Amex account travel charges and the Executive Director's statement that Archer did not provide voter registration services to NAN, any scheduling and advance logistics services they provided would likely be presidential in nature.

Another \$11,100 was paid by NAN for a fundraising event on the Candidate's birthday. The event venue was paid for by Sharpton 2004, however, documentation reviewed indicated that NAN paid for birthday concert artists.

Other presidential expenses in the amount of \$21,765, such as travel to South Carolina and Washington D.C., for NAN's Executive Director, were noted. The Executive Director had previously stated that she had traveled there on behalf of the campaign.

Finally, a total of \$6,480 was paid by NAN for miscellaneous expenses in South Carolina.

2. Payments from Rev-Als Production Inc. and Other Unknown Sources

The Audit staff's review of the Candidate's Amex account statements noted that there were additional payments totaling \$343,127 for which the source was either unknown or appeared to be from prohibited sources.

There were two payments totaling \$29,928 from Rev-Als Production Inc. to NAN for Amex reimbursements. Very little is known about Rev-Als Production Inc., however, based on check copies, it appeared to be an incorporated entity¹.

In addition, there is a payment in the amount of \$53,669 which was noted on the account statement as being a "Corporate Remittance Payment"² for which the Audit staff has no further information. Also, there is a total of \$259,530 in payments on the Candidate's Amex account for which the Audit staff has no information concerning the source of the payments. Finally, the Audit staff noted numerous checks written on the NAN account made out to cash that were negotiated by the Candidate. As previously stated, in at least one instance, a check made out to cash was annotated to indicate that it was for an Amex credit card reimbursement. Therefore, the Audit staff believes it is probable that other NAN checks made payable to cash and negotiated by the Candidate could have been used to pay for campaign activity charged on the Candidate's Amex account. While the total is not known, the payments could represent prohibited contributions. The Audit staff requested information from Sharpton 2004 as to the source of all payments on the Amex account; but, as of the date of the PAR, that information had not been provided.

3. Loans from the Candidate

During the Audit staff's review, it was noted that the Candidate loaned \$39,500 to Sharpton 2004. Of this, \$10,000 came in the form of cashiers checks obtained from Amalgamated Bank of New York. There are several hand-written annotations on the deposit documentation that state either, "Rev.'s Cashiers Check" or "From Rev Al Sharpton." No information has been made available as to the source of these funds. Another \$19,500 in loans was received in the form of a wire and a check from Rev-Als Production Inc., a company whose corporate status has not yet been confirmed.

¹ A search with the New York Secretary of State's office and other sources did not find any evidence that Rev-Als Production Inc. is a corporation. Subsequent to the PAR, Sharpton 2004 provided redacted copies of Rev. Sharpton's tax returns for 2003-2005, none of which specifically mention this entity.

² This does not appear to be a charge reversal, which is easily distinguished on the Amex account statements. A representative from the corporate service center of American Express stated that a corporate remittance means that a payment was from a corporate source.

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In October of 2005, there appears to have been \$10,000 loaned or contributed to Sharpton 2004. Sharpton Media Group LLC appears to have loaned Sharpton 2004 \$5,000 on October 14, 2005. Another \$5,000 was deposited on October 21, 2005 from an unknown source. Although Sharpton 2004 has not filed disclosure reports for 2005 through 2007, the bank statement shows that four days after the deposit from Sharpton Media Group LLC, October 18, 2005, a principal and interest payment of \$4,000 was made on a loan with Amalgamated bank. Another check in the amount of \$5,500 cleared the account just five days after the second deposit on October 21, 2005, but no information is available concerning the payee or purpose of the payment.

At the exit conference, Sharpton 2004's treasurer was provided a list of possible prohibited contributions. At that time, the treasurer made no response.

Preliminary Audit Report Recommendation and Committee Response

The Audit staff recommended that Sharpton 2004 submit documentation to demonstrate that the source of funds noted by the Audit staff is not prohibited or refund \$735,314 to the U.S. Treasury. If funds are not available to make the necessary refund, the Audit staff recommended that the amount be disclosed on Schedules D-P (Debts and Obligations) until funds become available.

In its response to the PAR, Sharpton 2004 stated in part that its review of payments to the Candidate's Amex account indicates the payments were made to pay both Mrs. and Rev Sharpton's charges. Also, a substantial number of the payments to the Amex account were returned for insufficient funds. Sharpton 2004 believes that a portion of the charges remain unpaid and there is pending litigation over the unpaid charges. Sharpton 2004 stated that this makes it difficult to attach payments to transactions since the Sharpton's were continuously in arrears. Finally, the response notes that Sharpton 2004 does not have any information concerning the sources of the assets and income used by the Sharpton's or NAN to make payments on the account.

In addition to Sharpton 2004's response, Counsel for NAN submitted through the Commission's Office of General Counsel, a spreadsheet listing payments on the Candidate's Amex account for the time period in question. The spreadsheet notes that a total of \$167,717 was paid by NAN and \$335,327 was paid by Rev-Als Production Inc. With the exception of one payment of \$100,000 on April 19, 2004 the list appears complete. It should be noted that no documentation supporting payments made by Rev-Als Production Inc. has been provided to date.

Concerning NAN's payments to vendors for goods and services provided to the campaign, Sharpton 2004 states in part, that it does not have substantive knowledge about these payments. Further, it can neither confirm nor deny whether these payments were for activity related to the presidential campaign. For example, Sharpton 2004 states that it believes Archer was hired by Rev. Sharpton to develop a written voter registration program for NAN. In conjunction with that program, Archer scheduled Rev. Sharpton

for NAN activities. Sharpton 2004 contends that the program was separate and independent of the voter registration activities managed by the Executive Director of NAN, as discussed above. Sharpton 2004 also contends that Archer was contracted by Sharpton 2004 to conduct scheduling and other campaign related fieldwork. Sharpton 2004 is unsure if campaign related services were provided prior to when Sharpton 2004 retained Archer (from November 2003 – February 2004). Sharpton 2004 “cannot confirm or deny Archer Group’s services to [NAN] were ‘in-kind’ to the committee.”

With respect to loans from the Candidate, Sharpton 2004 states that upon information and belief, the \$39,500 of loans/contributions made by Rev. Sharpton to the committee came from his personal assets and income as defined by 11 CFR 100.33. The written response did not supply any documentation about \$15,000 of the \$39,500 in loans for which the Audit staff was unable to determine the source of funds.

Audit Staff Assessment of Committee Response

The PAR indicated that Sharpton 2004 had received \$735,314 in possible prohibited contributions. Based on information provided by Sharpton 2004, the Audit staff has reduced the amount of possible prohibited contributions from \$735,314 to \$486,803 as discussed below.

Payments to Amex

The Audit staff accepts Sharpton 2004’s statement that payments on the Amex account were for all expenses that comprise the balance, not just for presidential expenses. In order to allocate the payments on the Amex account, the percentage of presidential versus non-presidential charges on each monthly statement was determined and each payment was prorated based upon that percentage.

Concerning Sharpton 2004’s comments that a substantial number of the payments to the Amex account did not clear the bank, with one exception noted below, the Audit staff’s analysis only considered those payments that actually cleared.

However, payments on the Amex account included in the PAR analysis were adjusted for two payments made prior to the timeframe determined to include presidential activity and one additional payment that never cleared the bank. After these adjustments, \$603,044 in payments is prorated between presidential and non-presidential activity.

Of the \$603,044 in payments, \$167,717 is acknowledged and partially documented as having come from NAN, an incorporated entity. Of the remaining \$435,327, the spreadsheet from NAN’s Counsel implies that \$335,327 was paid by Rev-Als Production Inc. No information from any source is available concerning the source of funds for a \$100,000 payment on April 19, 2004 payment. Since no documentation was provided to support the source of funds for payments other than those made by NAN, the Audit staff considers the entire \$603,044 to have been made with prohibited funds.

By applying the percentages discussed above to the payments totaling \$603,044, it is concluded that \$387,192 of the payments are for presidential activity and the remaining

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\$215,852 are for non-presidential activity. Of this \$387,192, \$107,615 appears to have been paid by NAN. Of the remaining prorated amount, \$279,577, Counsel for NAN indicates \$209,577 was made by Rev-Als Production Inc. No information is available for the remainder.

Regardless of whether Rev-Als Production Inc. made the payments, a question arises concerning the source of the money used to fund them. During the Audit staff's review it discovered payments made by NAN to Rev-Als Production Inc. for Amex expenses (\$40,000). Also noted was a payment of \$21,000 to Rev. Al Sharpton which indicated on the memo line of the check that it was for "Rev-Als Production Inc. for Amex reimbursements." Additionally the Audit staff noted a NAN payment to cash (\$7,600) for Amex travel as well as an \$8,000 payment to Rev. Al Entertainment Inc.³ for Amex charges on which Sharpton 2004 has made no comment.⁴ The Audit staff contends that even if Rev-Als Production Inc. had made the payments, there is considerable evidence to question the acceptability of the funds used.

Finally, neither NAN's Counsel nor Sharpton 2004 have made any comment concerning \$121,996 in payments that Sharpton 2004 made for Amex reimbursements. Since these payments went directly to the Candidate⁵ the Audit staff is unable to determine if any of the money actually was used to make payments on the Amex account.

In conclusion, it is the opinion of the Audit staff that Sharpton 2004 accepted at least \$387,192 (\$107,615 – NAN, + \$279,577 – unknown source) in prohibited contributions in the form of payments for campaign expenses charged on the Candidate's Amex account.

Indirect Payments from NAN for Presidential Activity

Sharpton 2004 argues in its response that \$84,611 in payments by NAN primarily to Archer were for a voter registration program for NAN.

The Audit staff is not persuaded by Sharpton 2004's response. As stated above, the Audit staff had questioned the Executive Director of NAN concerning voter registration programs and had been assured that she was the only person who had conducted any such program. The contract language available for review indicates that the work performed by Archer could be construed as presidential activity. With respect to the remaining expenses for scheduling and traveling, campaign staff mentioned that NAN and presidential itineraries were often very blurred and it became increasingly difficult to separate the activity. Newspaper articles reported that often the Candidate would campaign during his NAN events.

³ Tax returns provided by Sharpton 2004 indicate this is a subchapter S corporation.

⁴ These amounts were included in the preliminary audit report's table under NAN – Amex Payments (\$268,076). The Audit staff has removed them from that category and notes that they may have funded Amex account payments through Rev-Als Production Inc.

⁵ One payment, for \$30,000 was reported as a payment to the Candidate, but documentation suggests it went to Rev-Als production Inc. As such, it is unclear to the Audit staff who actually received the money

Given this information, it seems reasonable to conclude that the scheduling and travel expense included in the \$84,611 may have been mixed activity. However, under 11CFR §9034.7(1)(2) and (3) such expenses are considered entirely campaign.

Loans from the Candidate

Sharpton 2004's response states that the \$39,500 of loans/contributions made by Rev. Sharpton to his presidential campaign, came from his personal assets and income as defined by 11 CFR §100.33. Of the \$39,500, the Audit Staff notes that \$24,500 in loans appear to have come from Rev-Als Production Inc. and Sharpton Media Group LLC. No evidence was found to indicate that these companies are corporations and tax information provided indicates that Sharpton Media Group LLC is wholly owned by Rev Sharpton. It is therefore concluded the \$5,000 loan drawn on the Sharpton Media Group LLC is from the Candidate's personal funds.

However, for \$15,000 of the loans, no documentation as to the source of the funds has been provided. and the Audit staff continues to view this amount as impermissible funds.

In summation, as shown in the chart below, it is the opinion of the Audit staff that Sharpton 2004 has received at least \$486,803 in possible prohibited contributions.

NAN – Amex Payments	\$107,615
Unknown Source Amex Payments	279,577
NAN – Other Vendors	84,611
Unknown Source Loans	15,000
Total	\$486,803

Recommendation

The Audit staff recommends that, within 30 days of service of this report, Sharpton 2004 pay \$486,803 to the U.S. Treasury.

Finding 4. Receipt of Contributions that Exceed the Limits

Summary

A review of contributions from individuals indicated that Sharpton 2004 failed to resolve excessive contributions totaling \$10,500. Of these, only one was eligible for presumptive reattribution. No copy of a reattribution letter was provided and none of the contributions were refunded. In response to the PAR, Sharpton 2004 stated that it concurred with the finding and that it would implement the recommendations made in the report. To date, no evidence to show any corrective action regarding these excessive contributions has been provided. As a result, Sharpton 2004 should pay \$10,500 to the U.S. Treasury.

Legal Standard

Authorized Committee Limits: An authorized committee may not receive more than a total of \$2,000 per election from any one person or \$5,000 per election from a multicandidate political committee. 2 U.S.C. §441a(a)(1)(A), (2)(A) and (f); 11 CFR §§110.1(a) and (b) and 110.9(a).

Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
 - o Keep enough money in the account to cover all potential refunds;
 - o Keep a written record explaining why the contribution may be illegal;
 - o Include this explanation on schedule A if the contribution has to be itemized before its legality is established;
 - o Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in Commission regulations (see below for explanations of reattribution and redesignation); and
 - o If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

Joint Contributions. Any contribution made by more than one person (except for a contribution made by a partnership) must include the signature of each contributor on the check or in a separate writing. A joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).

Reattribution of Excessive Contributions. Commission regulations permit committees to ask donors of excessive contributions (or contributions that exceed the committee's net debts outstanding) whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to reattribute the excess amount to the other contributor. The committee must inform the contributor that:

1. The reattribution must be signed by both contributors;
2. The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
3. The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(A).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Notwithstanding the above, any excessive contribution that was made on a written instrument that is imprinted with the names of more than one individual may be attributed

among the individuals listed unless instructed otherwise by the contributor(s). The committee must, within 60 days of receipt, inform each contributor:

1. How the contribution was attributed; and
2. The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(B).

Facts and Analysis

The Audit staff's review of contributions from individuals noted that Sharpton 2004 received contributions from six individuals that exceeded the limitation by \$10,500. Sharpton 2004 presumptively reattributed five of the contributions, but failed to notify contributors of its actions by a written notification that offered a refund. Further, only one of those contributors was eligible for presumptive reattribution. For two of the contributions, there was a memo on a disclosure report which stated that a \$1,000 refund would be made. To date, Sharpton 2004 has neither provided evidence that a reattribution letter has been sent, nor that the refunds have been made.

At the exit conference, the Audit staff discussed the matter with Sharpton 2004's treasurer and provided a schedule of the excessive contributions. The treasurer had no comment at that time.

Preliminary Audit Report Recommendation and Committee Response

The Audit staff recommended Sharpton 2004:

- Provide evidence that the identified contributions were not excessive; or,
- For the one excessive contribution that could have been resolved by sending the notification specified at 11 CFR §110.1(k)(3)(ii)(B), Sharpton 2004 could have sent such a letter to inform the contributor how the contribution was attributed and offer a refund. That letter might have obviated the need for a contribution refund or payment to the U.S. Treasury. For the notification sent to the contributor, Sharpton 2004 should have provided a copy of the notification and evidence that it had been sent. Such notification should have demonstrated that both the contributor and the individual to whom the contribution was reattributed to were notified; or
- For any excessive contribution, Sharpton 2004 could have refunded the excess portion to the contributor in lieu of paying the amount to the U.S. Treasury. Sharpton 2004 should have provided evidence of the refunds (i.e. – copies of the front & back of the negotiated refund check). Such refunds would have reduced the payment required to the U.S. Treasury.
- If funds were not available to make the necessary refunds, Sharpton 2004 should have reported the amounts to be refunded as debts on Schedules D-P until funds became available to make the refunds.

In response to the PAR Sharpton 2004 states that it concurs with the finding and that it would implement the recommendations made in the report. Sharpton 2004 has provided no evidence to show any corrective action regarding these excessive contributions.

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Recommendation

The Audit staff recommends that, within 30 days of service of this report, Sharpton 2004 pay \$10,500 to the U.S. Treasury.

Finding 5. Misstatement of Financial Activity

Summary

A comparison of Sharpton 2004's reported activity to bank records revealed that receipts and disbursements, as well as ending cash on hand, had been materially misstated in calendar year 2004. Receipts were understated by \$110,279, due primarily to not reporting the receipt of \$100,000 in matching funds. Disbursements were understated by \$24,937 for the most part due to payroll and bank fees paid in March 2004 but not reported. Ending cash on hand was understated by \$96,537. In its response to the PAR, Sharpton 2004 concurred that its activity was misstated in 2004 and indicated amended reports would be filed. To date, such reports have not been filed.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle ;
- The total amount of disbursements for the reporting period and for the election cycle; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4), and (5).

Facts and Analysis

The Audit staff reconciled the reported activity to the bank records and determined there was a misstatement of receipts and disbursements in calendar year 2004, as well as ending cash on hand. The following chart details the discrepancies between the totals on Sharpton 2004's disclosure reports and bank records. Succeeding paragraphs address the reasons for the misstatements.

2004 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance at January 1, 2004	\$ 7,535	\$ 7,548	\$ 13 Understated
Receipts	\$ 290,594	\$ 400,873	\$ 110,279 Understated
Disbursements	\$ 382,720	\$ 407,657	\$ 24,937 Understated
Ending Cash Balance at December 31, 2004 ⁶	\$ (95,773)	\$ 764	\$ 96,537 Understated

⁶ Sharpton 2004's ending cash on hand does not foot due to an unexplained change in beginning cash on hand for the March 2004 report period.

The understatement of receipts was the result of the following:

• Matching Funds Received, but not Reported	\$ 100,000
• Net Unreported Contributions	451
• Unreported Loans	9,500
• Unexplained Difference	<u>328</u>
• Understatement of Receipts	<u>\$ 110,279</u>

The understatement of disbursements was the net result of the following:

• March Payroll and Bank fees not Reported	\$ 16,886
• Miscellaneous Disbursements not Reported	9,150
• Reported Loan repayment not Supported by Check or Bank Debit	(3,500)
• Unexplained difference	<u>2,401</u>
• Understatement of Disbursements	<u>\$ 24,937</u>

Ending cash on hand was misstated by \$96,537, as a result of the errors noted above, as well as an unexplained \$11,182 decrease to the beginning cash on hand for the March 2004 report period.

The Audit staff provided Sharpton 2004's treasurer with a workpaper detailing the misstatement of financial activity. The treasurer stated that the person who had previously compiled and filed reports for Sharpton 2004 had left suddenly and that he had to take over filing the reports as of the 2004 April 20th report. He was still learning and had mistakenly not reported some amounts. As for the matching funds, the treasurer seemed surprised that they were not reported and asked how he would have known to report them. The treasurer made no comment on why Sharpton 2004 made the change to the March 2004 report's beginning cash on hand. Sharpton 2004's treasurer stated that he was willing to make the necessary changes and would file amended reports as needed.

Subsequent to the exit conference, the treasurer met with the Audit staff and made recommended adjustments to the Sharpton 2004 electronic records.

In addition, Sharpton 2004 has failed to file any disclosure reports from 2005 forward.

Preliminary Audit Report Recommendation and Committee Response

The Audit staff recommended that Sharpton 2004 amend its reports to correct the misstatements noted above; as well as file appropriate disclosure reports from 2005 forward. In response to the PAR, Sharpton 2004 states that it concurred with the finding that it misstated its receipts and disbursements in 2004 and was implementing the recommendations of the Audit Division to amend its disclosure reports. As noted above, a Sharpton representative met with the Audit staff on several occasions to work on amended reports and indicated a willingness to file them as well as disclosure reports from 2005 forward, but, these reports have not been filed.